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C O N F I D E N T I A L SECTION 01 OF 02 CAIRO 006374

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NSC FOR RICK WATERS

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SUBJECT: WE WILL NOT BE SILENT: CAIRO JUDGES CLUB READIES FOR BATTLE OVER CONSTITUTIONAL AMENDMENTS

REF: A. CAIRO 3006

[¶](#)B. CAIRO 6327

[¶](#)C. CAIRO 3993

Classified By: Minister-Counselor for Economic and Political Affairs
William R. Stewart, for reasons 1.4 (b) and (d).

[¶](#)1. (C) Summary: A leading member of the influential Cairo Judges Club (JC) detailed for poloff in an October 11 meeting JC plans to prepare recommendations regarding upcoming constitutional amendments. He noted that the Judges Club plans to be "activist" during this "critical period of constitutional change" -- "we will not be silent in the face of government attempts to avoid true reform," and opined that the USG should support reform during the next six months by (1) maintaining constant pressure on the GOE for "authentic change" and, (2) when anticipated demonstrations against the government's proposed amendments package begin, a senior-level USG official should make public comments in support of the principles of the freedom to demonstrate and freedom of speech, and highlight USG concern over any harsh measures that might be taken against peaceful demonstrators. End summary.

JUDGES CLUB PLANS REGARDING AMENDMENTS

[¶](#)2. (C) In an October 11 meeting, Judge Hisham El Bastawisi (protect), a vice-president of the Court of Cassation, prominent member of the Cairo Judges Club (JC), and one of two judges at the center of the GOE-Judges Club crisis this spring (reftel A), detailed for poloff JC planning regarding the anticipated upcoming changes to the Egyptian constitution (Note: As reported reftel B, President Hosni Mubarak is expected to premiere a package of constitutional amendments in a speech at the opening of Parliament in mid-November. End note). According to Bastawisi, the JC has formed a committee (of which Bastawisi is a member) that is preparing consolidated JC recommendations on the possible constitutional amendments. Bastawisi anticipates that the JC's proposals will include: No amending of Article 88 (judicial supervision of elections); no amendment of Article 41 (which prohibits search and detention of citizens, absent a judicial warrant; GOE contacts argue that until this article is revised, the state of emergency cannot be lifted, and a new CT law cannot be implemented); amending Article 77 so that the President is limited to two terms in office; and amending Article 76 to ease the onerous requirements for becoming a presidential candidate, and to abolish the "Presidential Election Committee" that is charged with supervising the presidential election process.

[¶](#)3. (C) Bastawisi, a soft-spoken, impressive jurist, said that

the Judges Club plans to be "activist" during this "upcoming critical period of constitutional change" -- "we will not be silent in the face of government attempts to avoid true reform." He commented that once his health improves (he suffered a heart-attack in May, at the height of the JC push for a new law, and the GOE-JC crisis over accusations against him and Judge Ahmed Mekky for "defaming" judicial colleagues by exposing to the media instances of fraud and manipulation in the 2005 parliamentary elections), he plans to play a more vigorous public role in the debate on constitutional amendments. Bastawisi noted that "wherever I go in Egypt, people recognize me as one of the judges from the crisis this spring, and complete strangers urge me to 'not give up.'" He also commented that the JC has formed a separate committee that is drafting a new judiciary law. (Note: As reported reftel C, a new judiciary law was enacted in June 2006, but the JC was unhappy with the final text, which did not incorporate many of their recommendations. End note).

ADVICE ON HOW U.S. CAN SUPPORT REFORM

¶4. (C) Bastawisi made a point of noting his personal gratitude to the USG, saying he had been told that the ruling against him in May (an official reprimand) was minimized due to pressure from the U.S. Ambassador on the GOE, and, "I am deeply appreciative of this." He opined that the USG should support reform during the next six months by (1) maintaining constant pressure on the GOE in private meetings, and impressing upon Egyptian policymakers the importance of "authentic change" and, (2) "in a few months, when demonstrators are in the streets, protesting against the charade of the government's proposed amendments, and they are being arrested or abused by the Egyptian police, it would be

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extremely helpful if President Bush or Secretary Rice made public comments in support of the principles of the freedom to demonstrate and freedom of speech, and highlighted USG concern over the harsh measures I anticipate will be taken against peaceful demonstrators." Bastawisi noted that senior-level USG public comments on Egyptian reform are "tremendously important," commenting that during the 2005 elections, Egyptians were focused on whether President Bush would criticize the elections abuses during his weekly radio addresses - "it really matters whether the U.S. says something or not, both in terms of assisting reform in Egypt, but also in terms of regaining U.S. credibility."

¶5. (C) Interestingly, Bastawisi appeared to be staunchly anti-Muslim Brotherhood (MB), criticizing the group throughout the meeting, and discussing his efforts to combat their appeal. The Cairo Judges Club is often cited by GOE contacts as a bastion of the MB, but this leading member, at least, seems to be a vehement MB critic. He told poloff that he does not consider the MB the most powerful political force in the country - "yes, they did well in the last elections, but only approximately 20 percent of Egyptians voted. We must work to mobilize that other 80 percent." He opined that the non-voting "80 percent" are scared to participate, and do not see any utility in voting, as they do not trust the system. "We must convince them that they should participate - USG efforts should also concentrate on reaching that 80 percent, if you want to avoid empowering Islamists."

INTERNAL DYNAMICS OF JUDGES CLUB

¶6. (C) In response to poloff's queries about the representativeness of JC, Bastawisi noted that the JC is the only Egyptian institution which has had regular elections since the late 1930's. According to him, every year, one-third of the Club's 15-member board goes up for election; in November, seven seats on the board will be contested (a

third-of the board seats (five) plus two additional seats which are being vacated). Bastawisi opined that if the JC's current activist role is not representative among Cairo's judges, that will be reflected in the election results, and vice versa. He also analyzed current JC internal dynamics - "inside the Club, there is an ongoing debate over the appropriate role for judges. I estimate that roughly 2000 judges feel that judges should not be independent, but rather subservient to a dominant executive. They willingly support the government's view, for which they receive various privileges doled out by the GOE. 2000 other judges are vigorous defenders of the complete independence of the judiciary, and 4000 are on the fence, unsure about the issue. I am focusing on those 4000, trying to convince them that judicial independence is paramount."

JONES